

## Message Text

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INFO OCT-01 AF-06 ISO-00 JUSE-00 SCA-01 /010 R

DRAFTED BY L/M:KEMALMBORG:EDD

APPROVED BY L/M:KEMALMBORG

JUSTICE - MR. RISTAU (SUBSTANCE)

L/AF - MR. WILLIS

AF/EX - MR. KRYZA

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P 212141Z MAY 75

FM SECSTATE WASHDC

TO AMEMBASSY LAGOS PRIORITY

UNCLAS STATE 118920

E.O. 11652: N/A

TAGS: AFSP, OGEN

SUBJECT: REQUEST FOR WAIVER OF DIPLOMATIC IMMUNITY

REF: LAGOS 9364

1. SUMMARY: THREE-STEP PROCESS INVOLVED. FIRST IS RETENTION OF LOCAL ATTORNEY TO ADVISE EMBASSY AND DEPARTMENT, WHICH IS AUTHORIZED BY THIS MESSAGE. SECOND, DEPENDENT ON ADVICE, IS AUTHORIZATION FROM JUSTICE DEPARTMENT FOR LOCAL ATTORNEY TO GO INTO COURT. THIRD, IF WE GO TO COURT AND LIMITED WAIVER OF IMMUNITY NECESSARY, WAIVER SHOULD BE REQUESTED AT THAT TIME WITH DESCRIPTION OF CIRCUMSTANCES AND LOCAL ATTORNEY'S ADVICE.

2. EMBASSY IS AUTHORIZED TO RETAIN SERVICES OF BEST QUALIFIED LOCAL ATTORNEY AVAILABLE TO PROVIDE ADVICE TO EMBASSY ON WHAT REMEDIES ARE AVAILABLE UNDER NIGERIAN LAW AND PROSPECTS OF SUCCESS IN LAW SUIT. EMBASSY SHOULD OBTAIN FIRM AGREEMENT IN ADVANCE ON BASIS HOURLY FEE OR LUMP SUM WHAT ATTORNEY WILL CHARGE TO REPRESENT U.S. IN LITIGATION. INITIAL ADVICE SHOULD BE SEPARATELY CONTRACTED FOR ON AUTHO-  
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RITY OF STATE DEPARTMENT AND CHARGED TO POST ALLOTMENT. WE

BELIEVE NOT TO EXCEED \$500 WOULD BE ADEQUATE FOR THIS PURPOSE.

3. WE HAVE CONSULTED WITH JUSTICE DEPARTMENT, AND THEY PREPARED TO SUPPORT EMBASSY BY AUTHORIZING LOCAL ATTORNEY TO REPRESENT U.S. IN COURT UPON ANALYSIS OF CABLE REPORT FROM EMBASSY OF ADVICE OBTAINED UNDER PARA 2 ABOVE ON THEORY OF CASE AND REMEDIES UNDER NIGERIAN LAW (FOR EXAMPLE IS DECLARATORY JUDGMENT AVAILABLE?), AS WELL AS

REQUESTED FEE INFORMATION. JUSTICE ASKS IF THERE IS ANY NIGERIAN LAW PERMITTING REFORMATION OF CONTRACT WHEN PRICES HAVE ESCALATED BETWEEN INITIATION OF CONTRACT AND PERFORMANCE.

4. IF COURT ACTION IS INITIATED AND LOCAL ATTORNEY BELIEVES EMBASSY OFFICER'S APPEARANCE IS NECESSARY, HIS EXPLANATION OF REASONS FOR, AND NATURE OF, SUCH TESTIMONY SHOULD BE CABLED TO DEPARTMENT WITH EMBASSY RECOMMENDATION FOR WAIVER OF IMMUNITY. INGERSOLL

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## Message Attributes

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**Current Classification:** UNCLASSIFIED  
**Concepts:** n/a  
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**Draft Date:** 21 MAY 1975  
**Decaption Date:** 01 JAN 1960  
**Decaption Note:**  
**Disposition Action:** n/a  
**Disposition Approved on Date:**  
**Disposition Authority:** n/a  
**Disposition Case Number:** n/a  
**Disposition Comment:**  
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**Executive Order:** N/A  
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**Reference:** 75 LAGOS 9364  
**Review Action:** RELEASED, APPROVED  
**Review Authority:** SmithRJ  
**Review Comment:** n/a  
**Review Content Flags:**  
**Review Date:** 28 JUL 2003  
**Review Event:**  
**Review Exemptions:** n/a  
**Review History:** RELEASED <28 JUL 2003 by BalzMJ>; APPROVED <26 JAN 2004 by SmithRJ>  
**Review Markings:**

Margaret P. Grafeld  
Declassified/Released  
US Department of State  
EO Systematic Review  
05 JUL 2006

**Review Media Identifier:**  
**Review Referrals:** n/a  
**Review Release Date:** n/a  
**Review Release Event:** n/a  
**Review Transfer Date:**  
**Review Withdrawn Fields:** n/a  
**Secure:** OPEN  
**Status:** NATIVE  
**Subject:** REQUEST FOR WAIVER OF DIPLOMATIC IMMUNITY  
**TAGS:** AFSP, OGEN  
**To:** LAGOS  
**Type:** TE  
**Markings:** Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 05 JUL 2006